

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. 23-MJ-4446

Date September 6, 2023

Present: The Honorable Alka Sagar, United States Magistrate Judge

Interpreter None

Alma Felix

*Deputy Clerk**Court Reporter/Recorder*

Alex Tran

*Assistant U.S. Attorney*U.S.A. v. Defendant(s):Present Cust. BondAttorneys for Defendants:Present App. Ret.

Tommy Ray Salazar

X¹ X

Nadine Hettle, DFPD

X X

Proceedings: ORDER RE IDENTITY HEARING

On August 30, 2023, Defendant Tommy Ray Salazar (“Defendant”) made his initial appearance in this district following his arrest on the indictment filed in the United States District Court for the Southern District of Mississippi, Case No. CR 23-00094-HSOI-RPM on August 22, 2023. The indictment charges Defendant with conspiracy to possess with intent to distribute methamphetamine and fentanyl, in violation of 21 U.S.C §846, 841(a)(1). At Defendant’s request, the matter was continued to September 6, 2023 for an identity hearing.

The government presented testimony from Naoki Nakamura, a Special Agent (“SA”) with the U.S. Department of Homeland Security, Homeland Security Investigations (“HSI”). SA Nakamura was familiar with the investigation of Defendant conducted by HSI in Gulfport, Mississippi and had reviewed reports of investigation, the indictment, arrest warrant and biographical information concerning Defendant. SA Nakamura participated in the arrest of Defendant on August 29, 2023 along with Detectives from LA Impact and the Culver City Police Department. He spoke to Culver City Police Officer Rock who arrested Defendant following a traffic stop and stated that Defendant admitted that his true name was Tommy Salazar. SA Nakamura identified the Defendant in the courtroom as the same person whose photograph and identifying information were depicted on a DMV record and photograph in the name of Tommy Ray Salazar (Exh. 6), noting that the height and weight description on the DMV record was consistent with the Defendant’s height and weight. A law enforcement database identified the fingerprints of Defendant (taken by the U.S. Marshals Office) with an FBI number and arrest record in the name of Tommy Ray Salazar. (Exh. 7). SA Nakamura noticed the similarities in the Defendant’s photograph taken at the time of his arrest and the photograph in the DMV record and confirmed that the date of birth on both records was the same. SA Nakamura testified that it was his opinion that Defendant was the same person depicted in the DMV

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record, the booking record and the FBI record. SA Nakamura testified that information on these records matched the information included in the HSI record inquiry of Tommy Ray Salazar (Exh. 8) and a public database inquiry (Exh. 9). Finally, SA Nakamura identified a surveillance photo taken at a post office (Exh. 11) during the investigation as a photo of Defendant.

Based on SA Nakamura's testimony, the exhibits admitted into evidence,¹ and the photographs of the person identified as Tommy Ray Salazar in the DMV record, the booking photograph of Defendant, and the surveillance photograph taken during the investigation, and after considering the arguments of counsel, the Court finds that there is probable cause² to believe that Defendant Tommy Ray Salazar is the person named in the indictment filed in the United States District Court for the Southern District of Mississippi in case number CR 23-00094 on August 22, 2023.

Accordingly, Defendant is remanded to the custody of the United States Marshal to be removed to the Southern District of Mississippi for further proceedings.³

IT IS SO ORDERED.

Initials of Deputy Clerk	<div style="display: inline-block; text-align: right; padding-right: 10px;">1</div> <div style="display: inline-block; text-align: center; vertical-align: middle;">:</div> <div style="display: inline-block; text-align: left; padding-left: 10px;">00</div>
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¹ The Court took judicial notice of, and admitted into evidence, Government Exhibits 1-4, and 6-9.

² Although Rule 5 of the Federal Rules of Criminal Procedure does not explicitly articulate a standard for courts to apply in determining whether an arrestee is the person named in an indictment, most courts have applied a probable cause standard and Defendant does not contend otherwise. United States v. Saldana-Beltran, 37 F. Supp 3d 1180, 1186 (S.D. Cal. 2014) (rejecting preponderance of evidence as the standard for identity determination).

³ On August 30, 2023, the Court ordered Defendant released on bond with conditions but granted the government's request to stay the order in order to permit the government to seek review of the order granting release. (Dkt. No. 5). On August 31, 2023, District Judge Ozerdon, (Southern District of Mississippi) issued an order remanding Defendant to the custody of the U.S. Marshal to be transported to the Southern District of Mississippi for a *de novo* hearing on the Government's motion for review of this Court's order granting release. See Dkt No. 9.